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By Electronic Filing on Both Dockets

March 22, 2023

Hon. Lorna G. Schofield, U.S.D.J.
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *Cypress Holdings, III, L.P. v. Hall, et al.*, Docket No. 22-cv-01243 (LGS)
***Sport-BLX, Inc. v. Salerno, et al.*, Docket No. 22-cv-08111 (LGS)**

Dear Judge Schofield,

This firm represents Plaintiff Cypress Holdings, III, L.P. (“Cypress”) in the action entitled *Cypress Holdings, III, L.P. v. Hall, et al.*, Docket No. 22-cv-01243 (LGS) (the “Cypress Action”). This firm also represents Defendants Michael M. Salerno (“Salerno”) and Cypress (collectively, the “Cypress Parties”) in the related action entitled *Sport-BLX, Inc. v. Salerno, et al.*, Docket No. 22-cv-08111 (LGS) (the “Sport-BLX Action”). On October 13, 2022, Your Honor ordered that the Cypress Action and the Sport-BLX Action be “coordinated for purposes of discovery.” (Cypress Docket, ECF No. 56; Sport-BLX Docket, ECF No. 11). Pursuant to Paragraph 13(a) of the Amended Civil Case Management Plan and Scheduling Order entered in these actions on February 27, 2023 (Cypress Docket, ECF No. 95; Sport-BLX Docket, ECF No. 38), I, along with other counsel to the parties to these actions, submit this Joint Status Letter in accordance with Rule IV.A.2 of Your Honor’s Individual Rules and Procedures for Civil Cases (“Individual Rules”).

Discovery

On November 7, 2022, Cypress Action Defendant/Sport-BLX Action Plaintiff Sport-BLX, Inc. (“Sport-BLX”) and Cypress Action Defendant George Hall (“Hall”) propounded joint Requests for the Production of Documents and a joint First Set of Interrogatories on the Cypress Parties.

On November 21, 2022, Cypress Action Defendants GlassBridge Enterprises, Inc. (“GlassBridge”) and Joseph De Perio (“De Perio”) propounded their respective First Set of Document Requests and First Set of Interrogatories on Cypress. The following day, on November 22, 2022, the Cypress Parties propounded their First Request for the Production of Documents and First Set of Interrogatories, separately, on Hall, De Perio, GlassBridge, and Sport-BLX.

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On December 7, 2022, the Cypress Parties served their Written Responses and Objections to Sport-BLX's and Hall's Requests for the Production of Documents and First Set of Interrogatories. Two weeks later, on December 21, 2022, the Cypress Parties served their Written Responses and Objections to GlassBridge's and De Perio's First Sets of Document Requests and Interrogatories. On December 22, 2022, the Cypress Parties made their initial production of 1,612 pages of documents to Sport-BLX, Hall, De Perio and GlassBridge. On that same date, Sport-BLX, Hall, De Perio, and GlassBridge each served their respective Written Responses and Objections to the Cypress Parties' discovery demands and interrogatories. In its December 22, 2022 Responses and Objections to Cypress' First Set of Document Requests, GlassBridge requested to confer with Cypress in accordance with Your Honor's Individual Rules II.A.1 and II.A.3 to establish targeted search terms and achieve proportionality in ESI discovery. GlassBridge promptly collected the universe of potentially responsive ESI and repeatedly reiterated its agreement to search for and produce documents within its possession, custody and control that could be "located as a result of a reasonable search pursuant to agreed-upon search terms."

On January 13, 2023, Hall produced 163 pages of documents in response to the Cypress Parties' document demands. On January 24, 2023, De Perio, Sport-BLX and Hall made their initial productions of 63 pages and 53,340 pages, respectively.

On February 3, 2023, in accordance with this Court's Order entered January 26, 2023 (Cypress Docket, ECF No. 77; Sport-BLX Docket, ECF No. 28), the Cypress Parties produced one additional document "identify[ing] all members of Cypress[.]"¹ On February 7, 2023, following its filing of its Second Amended Complaint in the Cypress Action on January 27, 2023, Cypress served its First Requests for the Production of Documents on newly-added Defendants Sport-BLX Securities, Inc. ("S-BLX Securities"), Clinton Group Inc. ("Clinton Group"), Cesar Baez ("Baez"), Christopher Johnson ("Johnson"), Daniel Strauss ("Strauss"), and Francis Ruchalski ("Ruchalski").

On February 10, 2023, Sport-BLX and Hall transmitted a second production of 74,372 additional pages, totaling a production of 127,712 pages of documents as of that date.

On February 21, 2023, De Perio served a First Set of Requests for Admission on Cypress. Responses to those requests are due by March 23, 2023. Two days later, on February 23, 2023, in accordance with this Court's Memo Endorsement entered February 15, 2023 (Sport-BLX Docket, ECF No. 32), the Cypress Parties transmitted a supplemental production of 1,486 pages of documents to Sport-BLX, Hall, De Perio and GlassBridge, totaling a production of 3,102 pages of documents as of that date. On February 24, 2023 and February 28, 2023, Sport-BLX and Hall made two additional productions of documents bringing their total production to 264,387 pages. Throughout the month of February 2023, GlassBridge repeatedly sought to confer with Cypress to establish reasonable and

¹On February 9, 2023, in accordance with Rule 26.3(c)(3) of the Local Rules of the United States District Court for the Southern District of New York, the Cypress Parties produced a revised version of that document, wherein the Cypress Parties provided the full name and present or last known address and, where applicable the present or last known place of employment of each of Cypress' limited partners, bringing its total production to 1,616 pages as of that date.

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proportional search terms and the parties met and conferred regarding that issue. GlassBridge simultaneously reviewed documents yielded by selected terms upon which the parties had, to that point, agreed.

On March 3, 2023, Sport-BLX and Hall served a Second Set of Requests for the Production of Documents and a Second Set of Interrogatories on the Cypress Parties. Responses to those requests/interrogatories are due by April 3, 2023. On that same date, those same parties provided notice of their issuance of a deposition/document subpoena to one of Cypress' limited partners. On the same day, Cypress agreed to GlassBridge's final proposed search terms.

On March 9, 2023, the Cypress Parties transmitted an additional supplemental production of 215 pages of documents to Sport-BLX, Hall, De Perio and GlassBridge, totaling a production of 3,317 pages of documents as of that date. On that same date, newly added Defendants S-BLX Securities, Clinton Group, Strauss, Ruchalski, Baez and Johnson served their respective Written Responses and Objections to Cypress' February 7, 2023 First Requests for the Production of Documents. Also on that date, Sport-BLX and Hall provided notice of their issuance of an additional deposition/document subpoena to a different limited partner of Cypress.

On March 16, 2023, the Cypress Parties transmitted an additional supplemental production of 68 pages of documents to Sport-BLX, Hall, De Perio and GlassBridge, totaling a production of 3,386 pages of documents as of that date. On that same date, Sport-BLX and Hall provided notice of their issuance of deposition/document subpoenas to three additional limited partners of Cypress.

The following day, on March 17, 2023, GlassBridge made its initial production of documents responsive to the Cypress Parties' November 22, 2022 First Request for the Production of Documents, consisting of a total of 1,942 pages of documents. Three days later, on March 20, 2023, Clinton Group made its production of 33,934 pages of documents to the Cypress Parties which, according to S-BLX Securities' counsel, also included the document production of that entity. One day later, on March 21, 2023, the Cypress Parties provided notice of their issuance of document subpoenas to non-parties I Got It Holdings Corp. d/b/a Metabilia ("Metabilia"), Fintech Debt Corp. ("Fintech"), Orix PTP Holdings, LLC ("Orix"), and ConsenSys Software, Inc. ("ConsenSys").

The remaining Defendants added by way of the Second Amended Complaint (Strauss, Ruchalski, Baez, and Johnson) anticipate beginning their document production during the week of March 27, 2023. According to their counsel, these productions are not expected to be voluminous.

Procedural History

1. The Cypress Action – Docket No. 22-cv-01243 (LGS)

On February 14, 2022, Defendants Sport-BLX, GlassBridge, Hall and De Perio filed a Notice of Removal pursuant to 28 U.S.C. § 1441, *et seq.* and Local Rule 81.1 of the Local Rules, to remove the Cypress Action, then pending in the Supreme Court of the State of New York, New York County, Index No. 650179/2022, to the United States District Court for the Southern District of New York

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(ECF No. 2). On March 4, 2022, pursuant to Rule III.C.2 of the Individual Rules, Defendants Sport-BLX, Hall and De Perio and Defendant GlassBridge filed separate pre-motion letters expressing their intentions to file separate motions to dismiss Cypress' Complaint (ECF Nos. 7, 8). On April 7, 2022, Plaintiff Cypress filed a First Amended Complaint ("FAC") (ECF No. 17). On April 14, 2022, Defendants Sport-BLX, Hall and De Perio filed a pre-motion letter expressing their intention to file a motion to dismiss Cypress' FAC (ECF No. 18). On that same date, Defendant GlassBridge submitted a pre-motion letter to the Court wherein it sought a pre-motion conference in anticipation of its filing of a motion to disqualify Cypress' then-counsel, Fox Rothschild LLP ("Fox Rothschild"), and advised the Court of its intention to file a motion to dismiss the FAC (ECF No. 19). On April 25, 2022, the Court ordered that Defendants Sport-BLX, Hall and De Perio file their motion to dismiss and that Defendant GlassBridge file its motion to dismiss and to disqualify Plaintiff's counsel by May 24, 2022 (ECF No. 23). Prior to that date, on May 13, 2022, counsel for Sport-BLX, Hall and De Perio advised the Court via letter that those Defendants wished to join in GlassBridge's contemplated disqualification motion (ECF No. 24). Counsel further requested that the Court stay the briefing schedule on its motion to dismiss pending a ruling on the forthcoming disqualification motion. On May 16, 2022, the Court ordered that Defendants Sport-BLX, Hall and De Perio and Defendant GlassBridge each file a separate motion for disqualification by May 31, 2022 (ECF No. 25). The Court further ordered that the briefing schedule for Defendants' proposed motions to dismiss be stayed until further order of the Court. On May 31, 2022, in accordance with the Court's Order, Defendants Sport-BLX, Hall and De Perio and Defendant GlassBridge filed their respective motions to disqualify (ECF Nos. 26, 29). Cypress filed its opposition to those motions on June 21, 2022 (ECF No. 36) and Defendants filed their respective reply briefs on June 28, 2022 (ECF Nos. 38, 42). On August 23, 2022, the Court entered an Opinion and Order (1) granting Defendants' motions to disqualify Fox Rothschild as counsel for Cypress and (2) staying discovery in the Cypress Action for thirty days to permit Cypress to secure substitute counsel (ECF No. 46). This firm entered its appearance on behalf of Cypress on September 22, 2022 (ECF No. 48).

On January 17, 2023, Cypress filed a pre-motion letter requesting a pre-motion conference in anticipation of filing a motion, pursuant to Federal Rule of Civil Procedure 15(a)(2), for leave to file a Second Amended Complaint. (ECF No. 70). On January 25, 2023, this Court entered an Order granting Cypress' motion for leave to amend and ordering Cypress to file its Second Amended Complaint by January 27, 2023. (ECF No. 76). On January 27, 2023, in accordance with the Court's Order, Cypress filed its Second Amended Complaint, which added S-BLX Securities, Clinton Group, Strauss, Ruchalski, Baez and Johnson as Defendants to this action. (ECF Nos. 78, 80).

On February 10, 2023, all Defendants filed their respective Answers to the Second Amended Complaint (ECF Nos. 87, 90-92). On March 3, 2023, Defendants GlassBridge, Ruchalski and Strauss filed a joint Amended Answer to the Second Amended Complaint. (ECF No. 97).

2. *The Sport-BLX Action – Docket No. 22-cv-08111 (LGS)*

On September 22, 2022, Defendants Salerno, Northeast Professional Planning Group, Inc. ("NPPG") and Cypress filed a Notice of Removal pursuant to 28 U.S.C. § 1441, *et seq.* and Local Rule 81.1 of the Local Rules, to remove the Sport-BLX Action, then pending in the Supreme Court

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of the State of New York, New York County, Index No. 652732/2022, to the United States District Court for the Southern District of New York (ECF No. 3). On October 4, 2022, the Cypress Parties filed an Amended Notice of Removal (ECF No. 6). On October 10, 2022, Plaintiff Sport-BLX filed a Letter Motion asking this Court to order the Cypress Parties to publicly disclose the identities of all partners of Cypress, or, in the alternative, to issue a summary remand. (ECF No. 10). On October 17, 2022, the Court entered an order granting in part and denying in part Sport-BLX's Letter Motion (ECF No. 14). Specifically, the Court ordered the Cypress Parties to "file a letter attaching one or more affidavits from a person or persons with personal knowledge attesting to the facts required to establish citizenship of each of the general and limited partners of [Cypress]. . . . The affidavits need not identify the names or locations of the persons or entities." In accordance with the Court's Order, the Cypress Parties submitted the Affidavit of Michael M. Salerno on October 28, 2022 (ECF No. 18).

On January 3, 2023, Sport-BLX and Hall filed a pre-motion letter requesting a pre-motion conference in anticipation of filing a motion to compel Defendants to produce "information concerning the investors in Cypress." (ECF No. 25). On January 26, 2023, this Court entered an Order requiring the Cypress Parties to "identify all members of Cypress . . . and respond promptly to Sport-BLX and Hall's other discovery requests without regard to their objections that discovery from or about Cypress' members is inappropriate." (ECF No. 28). The Court's Order further required Defendants in both the Cypress Action and the Sport-BLX action to "answer, move or otherwise respond to the respective operative complaints [in those actions] by **February 10, 2023**." (ECF No. 28).

On February 10, 2023, Defendants Salerno, NPPG and Cypress filed a pre-motion letter expressing their intention to file a motion to dismiss Sport-BLX's Complaint (ECF No. 29). On February 15, 2023, this Court entered an Order denying Defendants' request for leave to file a motion to dismiss as untimely. (ECF No. 32). The Court's Order further provided: "For Defendants in *Sport-BLX, Inc. v. Salerno, et al.*, No. 22 Civ. 8111, their deadline to file an answer and avoid default judgment was extended *nunc pro tunc* to February 10, 2023, and now is extended again to **February 24, 2023**." (ECF No. 32). The Order further granted Sport-BLX's request for a further order regarding discovery about Cypress's limited partners and ordered Defendants to comply with the Court's January 26, 2023 Order by February 24, 2023. (ECF No. 32).

On February 23, 2023, in accordance with the Court's February 15, 2023 Order, Defendants Salerno, NPPG and Cypress filed their Answer to the Complaint. (ECF No. 36). Defendant Salerno further asserted a Counterclaim against Sport-BLX for indemnification. (ECF No. 36).

On March 1, 2023, Sport-BLX filed an Amended Complaint against Salerno and Cypress, removing NPPG as a Defendant in this action. (ECF No. 40). On March 15, 2023, Salerno and Cypress filed their Answer to the Amended Complaint, wherein Salerno again asserted a Counterclaim against Sport-BLX for indemnification. (ECF No. 41). On March 16, 2023, Sport-BLX filed its Answer to Salerno's Counterclaim. (ECF No. 42).

Plan to Ensure Discovery Deadlines are Met

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All parties intend to complete production of responsive documents to each respective document demand and request for interrogatories by early April 2023. Further, all parties are currently attempting to schedule, conduct and complete factual depositions during the months of April/May 2023 and to conduct expert discovery thereafter.

Respectfully submitted,

/s/ A. Ross Pearson

A. Ross Pearson
Member

cc: All Counsel of Record (*via ECF*)